

THE WHITE HOUSE

A BILL

To preserve and promote ethical standards throughout the executive branch and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act of 1977".

TITLE I - GOVERNMENT PERSONNEL FINANCIAL
DISCLOSURE REQUIREMENTS

Persons Required to File

Section 101. (a) Upon assuming the position of an officer or employee designated in subsection (f), an individual shall file a report as required by subsection 102 (b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report as required by subsection 102 (b).

(c) Upon becoming a candidate for nomination or election to the office of President or Vice President, as determined by the Federal Election Commission, an individual shall file a report as required by subsection 102 (b).

(d) Any individual who is an officer or employee designated in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report as required by subsection 102 (a).

(e) Any individual who occupies a position designated in subsection (f), before leaving such position, shall file a report as required by subsection 102(a), unless such individual has accepted employment in another position designated in subsection (f).

(f) The officers and employees referred to in subsections (a), (d) and (e) are --

- (1) the President;
- (2) the Vice President;
- (3) each officer or employee of an Executive agency, as defined in section 105 of title 5,

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(OVER)

United States Code, including a special Government employee as defined in section 202 of title 18, United States Code, whose pay rate either is specified in subchapter II of chapter 53 of title 5, United States Code, or is at a comparable or greater pay rate under another authority; and

(4) each officer or employee, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS 16, GS 17 or GS 18 of the General Schedule prescribed by section 5332 of title 5, United States Code, or who is in a comparable position under another authority; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 1009 of title 37, United States Code; and each officer or employee in any other position determined to be of equal classification.

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Director of the Office of Government Ethics established by Title II of this Act, but the total of such extensions shall not exceed ninety days.

Contents of Reports

Sec. 102. (a) Each report filed under subsections 101(d) and (e) shall include a full and complete statement, in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to --

(1) the source and amount of: (A) each item of earned income or aggregate of such items from a single source totalling \$100 or more, including any fee or other honorarium received in connection with the preparation or delivery of any speech, attendance at any convention or meeting, or the preparation of any article for publication; and (b) any gift with a fair market value of more than \$25 or gifts aggregating \$250 or more from a single source, including transportation, lodging, food, or entertainment, other than political contributions otherwise required by law to be reported and gifts from a personal friend or relative with whom the reporting individual has no contact in the course of his official duties;

(2) the source and category of value of income (other than earned income and gifts) received during the year which exceeds \$100 in value or amount from any one source;

(3) the identity and category of value of any personal property held, directly or indirectly, in a trade of business or for investment or the production of income, other than household furnishings, works of art, jewelry, and collections of stamps, coins, and similar items, and which has a fair market value of at least \$1,000 at any time during the year;

(4) the identity (except the address of a personal residence) and category of value of each item of real property held, directly or indirectly, which has a fair market value in excess of \$1,000 at any time during the year;

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(5) the identity and category of value of each liability owed, directly or indirectly, other than to a relative, which exceeds \$2,500 at any time during the year;

(6) the identity, date, and category of value of any direct or indirect transaction, other than with a spouse or minor child, in securities or commodities futures during the year which exceeds \$1,000, except that the identity of the recipient of any gift to any tax-exempt organization described in section 501(c) of the Internal Revenue Code of 1954 involved in such a transaction need not be reported;

(7) the identity (except the address of a personal residence), date, and category of value of any direct or indirect purchase, sale, or exchange, other than a transaction with a spouse or minor child, of any interest in real property during the year which exceeds \$1,000 in value as of the date of such purchase, sale, or exchange, except that the identity of the recipient of any gift to any tax-exempt organization described in section 501(c) of the Internal Revenue Code of 1954 involved in such a transaction need not be reported;

(8) any interest in a patent right, copyright, or mineral lease, and the nature of such interest, held during the year;

(9) the identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, and any educational or other institution; provided that this paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity;

(10) a description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections 101(a), (b) and (c) shall include a full and complete statement, in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to information required by paragraphs (3), (4), (5), (8), (9), and (10) of subsection (a), as of the date of filing, and the sources and amounts of earned income and other payments for the year of filing and the preceding calendar year.

(c) The categories for reporting the amount or value of the items covered in paragraphs (2) through (7) of subsection (a) are as follows:

- (1) up to \$5,000;
- (2) from \$5,000 to \$15,000;
- (3) from \$15,000 to \$50,000;

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(4) from \$50,000 to \$100,000; and

(5) greater than \$100,000.

(d) For purposes of paragraphs (1) through (8) of subsection (a), the report shall include the gifts, unearned income, and the source (but not amount) of earned income received by and the assets, transactions, and liabilities of a spouse and minor child occupying the household of the reporting individual.

(e) The holdings of and the income from a trust or other financial arrangement from which the reporting individual, spouse, or minor child occupying the same household receives income or in which such person has a beneficial interest must be reported according to the provisions of this section; provided that if the beneficiary of the trust or arrangement does not have knowledge of the identity of the holdings and sources of income, the report shall so indicate and the reporting individual shall provide that the information will be submitted by the trustee or other appropriate person.

Filing of Reports

Sec. 103. (a) Each officer and employee identified in subsection 101 (f) shall file the report required by this Title with the designated official of his agency.

(b) In addition, the President, the Vice President, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and each full-time member of a committee, board or commission appointed by the President shall submit a copy of his report to the Director of the Office of Government Ethics.

(c) Each individual identified in subsection 101 (b) shall file the report required by this Title with the agency in which he will serve and a copy of such report with the Director of the Office of Government Ethics.

(d) Each individual identified in subsection 101 (c) shall file the report required by this Title with the Federal Elections Commission.

Failure to File or Falsifying Reports

Sec. 104. (a)(1) Any individual who knowingly falsifies or fails to report any information required under section 102 shall be fined in an amount not exceeding \$5,000 or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action against any person who fails to file a report as required by section 101 or who fails to report any information which such person is required to report under section 102. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$5,000.

(b) The head of each agency and the Director of the Office of Government Ethics shall refer to the Attorney General the name of any individual they have reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported.

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(c) The President, the Vice President, and the head of each agency, or the Civil Service Commission, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or information or falsifying information.

Custody of and Public Access to Reports

Sec. 105. (a) Each agency shall make each report filed with it under this Title available to the public within forty five days after the receipt of such report and furnish a copy of the report to any person upon written request; provided, that this section does not require public availability of:

(1) information pertaining to the holdings and sources of income of a trust or other financial arrangement designed to insulate the reporting individual, his spouse, or minor child from knowledge of the holdings and sources of income of the trust if such trust or arrangement has been approved under regulations prescribed by the Civil Service Commission, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations; provided, that the instrument or agreement establishing the trust or arrangement and the identity and category of value of assets initially placed in the trust or arrangement shall be made available to the public under this section; and

(2) the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national interest of the Federal Government.

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as required by law*

(b) The agency shall require any person inspecting or receiving a copy of a report under subsection (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting a report and may require the requesting person to pay a reasonable fee in an amount which the agency finds necessary to recover the cost of reproduction and mailing of such report. The names and addresses of persons and organizations inspecting or receiving a copy of a report shall be made available to the reporting individual and to the public.

(c)(1) It shall be unlawful for any person to inspect, obtain, or use a report--

- (A) for any unlawful purpose;
- (B) for any commercial purpose;
- (C) for determining or establishing the credit rating of any individual; or
- (D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

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(2) The Attorney General may bring a civil action against any person who inspects, obtains, or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$5,000.

(d) Any report received by an agency shall be held in its custody and be made available to the public for a period of 5 years after receipt of the report. After such five year period the report shall be destroyed.

Review of Reports

Sec. 106. (a) The Director of the Office of Government Ethics and the head of each agency shall make provisions to assure that each report filed under subsections 103 (a) and (c) and each copy of a report filed under subsection 103(b) is reviewed to assure compliance with applicable laws and regulations.

(b) The Director of the Office of Government Ethics shall review, on a random basis, not less than five per centum of the reports filed under subsection 103(a).

Additional Reporting Requirements

Sec. 107. Nothing in this Title shall be construed to prevent the President from requiring officers or employees not covered by this Title to submit confidential financial statements.

Effective Date

Sec. 108. This Title shall take effect on January 1, 1978, and the reports filed under subsection 101(d) on May 15, 1978, shall include information for calendar year 1977.

TITLE II - OFFICE OF GOVERNMENT ETHICS

Office of Government Ethics

Section 201. (a) There is established in the Civil Service Commission (hereinafter referred to as the "Commission") an office to be known as the Office of Government Ethics.

(b) There shall be at the head of the Office of Government Ethics a Director (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate.

Authority and Functions

Sec. 202. (a) The Director shall provide, under the general supervision of the Commission, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any Executive agency, as defined in section 105 of title 5, United States Code.

(b) The responsibilities of the Director shall include --

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(1) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by Title I of this Act;

(2) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigating compliance with the public financial disclosure requirements of Title I of this Act by officers and employees of the executive branch and Executive agency officials responsible for receiving, reviewing, and making available such statements;

(4) conducting a random annual review of not less than five per centum of the financial statements filed by officers and employees in the executive branch as required by Title I of this Act to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(5) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

(6) interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

(7) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

(8) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(9) requiring such reports from executive agencies as the Director deems necessary;

(10) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

(11) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Commission and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

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(12) cooperating with the Attorney General in developing an effective system for reporting allegations of violations of the conflict of interest laws to the Attorney General, as required by section 535 of title 28, United States Code;

(13) providing information on and promoting understanding of ethical standards in Executive agencies.

(c) In the development of policies, rules, regulations, procedures and forms to be recommended, authorized or prescribed by him, the Director shall consult when appropriate with the Executive agencies affected, and the Attorney General.

Administrative Provisions

Sec. 203. Upon the request of the Director, each Executive agency is directed to --

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

Authorization of Appropriations

Sec. 204. There are authorized to be appropriated to carry out the provisions of this Act, and for no other purpose --

(1) not to exceed \$1,000,000 for the fiscal year ending September 30, 1978;

(2) not to exceed \$1,000,000 for each of the four fiscal years thereafter.

Annual Pay

Sec. 205. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"() Director of the Office of Government Ethics".

TITLE III.

Section 207 of title 18, United States Code, is amended to read as follows:

207. Disqualification of former officers and employees: disqualification of partners of current officers and employees.

"(a) Whoever, having been an officer or employee of the executive or judicial branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly --

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(1) acts as agent or attorney for or otherwise represents himself or any other person (except the United States) in any formal or informal appearance before, or

(2) makes any contact on behalf of himself or any other person (except the United States) with the intent to influence any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or of the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

"(b) Whoever, having been so employed, within two years after his employment has ceased, knowingly --

(1) acts as agent or attorney for or otherwise represents himself or any other person (except the United States) in any formal or informal appearance before, or

(2) makes any contact on behalf of himself or any other person (except the United States) with the intent to influence any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or of the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or

"(c) Whoever having been so employed --

(1) at a rate of pay specified in subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater pay rate under another authority; or

(ii) in a position classified at GS 16, GS 17 or GS 18 of the General Schedule prescribed by section 5332 of title 5, United States Code; in a position classified at O-7 or above under section 1009 of title 37, United States Code; or in a comparable position under another authority,

within one year after his employment with the department or agency has ceased, knowingly --

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(1) acts as agent or attorney for or otherwise represents any other person (except the United States) in any formal or informal appearance before, or

(2) makes any contact on behalf of any other person (except the United States) with the intent to influence the department or agency in which he served as an officer or employee, or any officer or employee thereof, in connection with any judicial, rule-making, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter which is pending before such department or agency or in which such department or agency is a party or has a direct and substantial interest --

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both: Provided, that nothing in subsection (a), (b) or (c) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as agent or attorney for or otherwise representing, or making any contact on behalf of another person in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee; Provided further That subsection (c) shall not apply to a former special Government employee who did not perform duties of his position in the department or agency for more than sixty days during the period of three hundred and sixty-five days immediately preceding the date of termination of his services with such department or agency.

"(d) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission, of the United States or of the District of Columbia, or any officer or employee thereof, on behalf of any other person (except the United States), in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility --

Shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

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USE ONLY☐ CONFIDENTIAL☐ SECRET

Approved For Release 2000/08/30 : CIA-RDP81-00314R000600010030-7

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

EXTENSION

NO.

Chief, Review Staff, OP
1006 Ames

3465

DATE 10 May 1977

TO: (Officer designation, room number, and building)

DATE

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

RECEIVED

FORWARDED

1. DD/Pers-P&C

2.

3. OP/EA

5E-58-Hqs.

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11.

I suppose the Agency could make an under the table deal with the Director of Ethics, but would that be ethical?

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Seriously, the monitoring responsibility implemented by uncleared personnel in the Director of Ethic's office would, I believe, cause us problems, and if we were to manipulate the report to specifically exclude "covered" personnel, I'd suspect the Agency could be subject to an investigation.

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15.

Other than this appears to be an invasion of privacy at a fairly low financial level (and I doubt CIA could influence any change there), there is no particular problem with the general content. However, while employees would be submitting their reports to the Head of Agency, and CIA is exempt from making the reports available to the public, we might run into trouble with our "covered" personnel if the Director of Government Ethics (shades of Orwell) asked for a random sampling (responsibility 4 on page 7). This Director would also have the authority to monitor and investigate individual and Agency compliance. Section 203(2) . . . page 8) might be the out for this problem . . . "prohibited by law" . . . but I believe we would want to be sure this would apply.

STATINTL

Approved For Release 2000/08/30 : CIA-RDP81-00314R000600010030-7

ROUTING AND RECORD SHEET

Approved For Release 2000/08/30 : CIA-RDP81-00314R000600010030-7

FROM:

Legislative Counsel
6C19 HQ

EXTENSION

6126

NO.

DATE

4 May 1977

TO: (Officer designation, room number, and building)

5 MAY 1977

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. OP

Attn: [REDACTED]

5E13 HQ

5 MAY 1977

[Signature]

Attached is a copy of the Ethics and Financial Disclosure bill proposed by President Carter yesterday. The bill was introduced as S. 1446 by Senator Ribicoff.

2.

Δ/Pers

5 MAY 1977

[Signature]

Title I of the bill establishes requirements for financial disclosure by top-level Executive officers, including all those at GS-16 and above. I have skimmed the bill, and it provides:

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C/Review Staff

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3-Comments please?

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16 2-Comments from - 7e>!

13.

C/Review Staff?

14.

15.

STATINTL

Office of Legislative Counsel